

DH
3-11
AF**UTILITY/DESIGN PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s):	Adrian C. Ravenscroft
Title:	STENT DELIVERY SYSTEM
Filed:	June 12, 1997
Ser. No:	08/873,484

FAX RECEIVED**FEB 18 1999****Group 3700**

Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

Docket No.:S63.2-6924

**I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT
AND
II. CONDITIONAL PETITION TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION AND TO WAIVE ANY FURTHER
TERMINAL DISCLAIMER REQUIREMENTS**

Applicant's assignee, Boston Scientific Corp., hereby requests (I) that the Notice of Abandonment mailed 1/19/99 be withdrawn and a new copy of the office action be mailed with new response dates.

Alternatively, if withdrawal of the Notice of Abandonment is not considered sufficient, it is conditionally requested (II) that the application be revived for unintentional abandonment, along with mailing of a new copy of the office action with new response dates and that any terminal disclaimer requirements applicable to this application be deemed to be satisfied or waived in view of the extraordinary circumstances of this application.

The representations made herein are made in compliance with 37 CFR 10.18(b).

I. The Notice of Abandonment Should Be Withdrawn

In a telephone call to Examiner Lewis regarding the status of this case our firm learned that the case was abandoned for failure to respond to an office action mailed 6/11/98. After the situation was explained to Examiner Lewis, he indicated that we should direct a petition to him without a fee.

Applicant mailed a power of attorney from assignee on June 12, 1998, with a certificate under 37 CFR §1.8, which is of record in the file. Applicant was not aware at the time that an office action had been mailed the previous day to the law firm of Pearson & Pearson. The power was accepted and all correspondence was indicated as being mailed to the new address of

***In Re: Adrian C. Ravenscroft
Application No.: 08/873,484***

***Petition to Withdraw Abandonment
Page 2***

record in a paper of record and mailed 6/30/98.

Our office has not been able to locate the office action. We have inquired with the original firm Pearson & Pearson prosecuting this application and they indicate that they never got the action. Our firm has also investigated with Boston Scientific and SciMed (Boston Scientific's wholly owned subsidiary). Neither of these companies could locate the office action.

Because we have not been able to locate the office action we have not been able to respond to it in connection with our conditional request II. Applicants request that if both requests I and II are denied that a copy of the office action be faxed or mailed to our offices so that we may respond to it in connection with a petition to revive.

Because of the unusual timing of the filing of the new power of attorney and the missing office action, applicants request that the abandonment be withdrawn and the office action mailed with new response dates.

If a petition fee is deemed necessary, please charge it to deposit account 22-0350.

II. Conditional Request to Treat this Paper as a Petition to Revive Unintentionally Abandoned Application and to Waive Any Further Terminal Disclaimer Requirements

If for any reason, after full consideration of the request to withdraw abandonment, or if the foregoing Petition to Withdraw Holding of Abandonment is treated as untimely, then, as authorized by MPEP §711.03(c)(I) applicant hereby requests that this paper be treated as a petition under 37 CFR 1.137(b) to revive the application for Unintentional Abandonment.

According to 37 CFR 1.137(b) a grantable petition to revive for unintentional abandonment must be accompanied by:

- (1) The required reply;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of 37 CFR 1.137.

(1) The Required Reply

Because applicants do not have a copy of the office action, applicant requests that this requirement be 1) waived; 2) or in the alternative that the action be faxed or mailed to allow

In Re: Adrian C. Ravenscroft
Application No.: 08/873,484

Petition to Withdraw Abandonment
Page 3

for preparation of a response, or 3) that a contingent notice of appeal as discussed below be filed herewith.

A Contingent Notice of Appeal is filed herewith, together with authorization to charge applicant's deposit account. The Contingent Notice of Appeal is made contingent only on the Commissioner's reaching this petition to revive, *i.e.*, by refusing to grant the foregoing petition to withdraw the Notice of Abandonment. As such, at the time this petition is considered, the contingency will have occurred and the Notice of Appeal will no longer be contingent. Accordingly, the Notice of Appeal will satisfy the requirement of this petition for "the required reply."

(2) The Petition Fee as Set Forth in § 1.17(m)

It is noted that in accordance with the procedure of MPEP §711.03(c)(I), this contingent request is not seen to require a separate petition fee unless the foregoing Petition to Withdraw is denied. If the fee for this petition is required it maybe charged to deposit account No. 22-0350.

(3) The Statement of Unintentional Abandonment

The undersigned, as attorney of record, hereby confirms that the entire period of delay in filing the required reply from the due date for the reply, until the filing of a grantable petition for revival for unintentional abandonment was unintentional. It is noted that the record provided above demonstrates that as of June 20, 1998, we were still under the belief that the application was in fact being further processed by the USPTO.

(4) No Terminal Disclaimer Is Believed Required


Because this conditional petition was filed within 6 months of the date of abandonment and under 37 CFR 1.137(b), no terminal disclaimer is believed to be required.

In Re: Adrian C. Ravenscroft
Application No.: 08/873,484

Petition to Withdraw Abandonment
Page 4

Respectfully submitted,
VIDAS, ARRETT & STEINKRAUS

Date: February 8, 1999

By: 
Richard A. Arrett
Registration No. 33,153

FAX RECEIVED
FEB 18 1999
Group 3700

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9131
Telephone No.: (612) 563-3000
Facsimile No.: (612) 563-3001
F:\WPWORK\RAA\6924-PET.125